

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ROBERT LESTER, #28156-034

PLAINTIFF

VS.

CIVIL ACTION NO. 5:05-cv-153 (DCB) (JCS)

UNITED STATES OF AMERICA

DEFENDANT

ORDER

This cause is before the Court on the plaintiff's Petition to File Objections to the Magistrate's Report and Recommendation Out of Time **(docket entry 30)**, and Motion to File for Reconsideration or Appropriate Alternative **(docket entry 31)**, which the Court construes collectively as a motion to reopen this case. Having carefully reviewed the motions and the record in this case, and being otherwise fully advised in the premises, the Court finds as follows:

On August 16, 2005, the plaintiff, a federal prisoner, filed this action pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b) and 2672 et seq. On January 23, 2006, the United States filed a motion to dismiss or, in the alternative, for summary judgment. On September 28, 2006, there being no objection by the plaintiff, the Court adopted the Report and Recommendation, dismissing the plaintiff's "post pack-out" claims, and denying the United States' motion without prejudice as to the "pre-pack-out" claims.

On October 19, 2006, the United States filed a second motion

to dismiss the plaintiff's pre-pack-out claims. The plaintiff did not respond to the motion, and the Magistrate Judge entered a Report and Recommendation recommending dismissal based on the plaintiff's failure to submit evidence of any negligence by the government. R & R, Dec. 8, 2006. There being no objection filed by the plaintiff, the Court adopted the Report and Recommendation and dismissed this action with prejudice on January 8, 2007.

The plaintiff subsequently filed an untimely objection and motion to reopen the case, which the Court addressed and denied in an Order of September 25, 2007. The plaintiff now seeks again to reopen the case, but does not make any additional argument. For the reasons stated in the Court's September 25, 2007, Order, the Court denies the present motions. Accordingly,

IT IS HEREBY ORDERED that the plaintiff's Petition to File Objections to the Magistrate's Report and Recommendation Out of Time (**docket entry 30**), and Motion to File for Reconsideration or Appropriate Alternative (**docket entry 31**), which the Court construes collectively as a motion to reopen this case, are DENIED.

SO ORDERED, this the 15th day of January, 2008.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE